



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CAPILANO PROPERTY MANAGEMENT  
SERVICES and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes

For the tenants: MNSD, FFT  
For the landlord: MNDCL-S, FFL

### Introduction

This hearing was convened as a result of an Application for Dispute Resolution (“application”) by both parties seeking remedy under the *Residential Tenancy Act* (“Act”). The landlord applied for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, to retain the tenants’ security deposit, and to recover the cost of the filing fee. The tenants applied for a monetary order for the return of double their security deposit and to recover the cost of the filing fee.

Two agents for the landlord (“agents”) and the tenants attended the teleconference hearing as scheduled. The hearing process was explained to the parties and an opportunity was given to ask questions about the hearing process. Thereafter the parties gave affirmed testimony, were provided the opportunity to present their evidence orally and in documentary form prior to the hearing, and make submissions to me. I have reviewed all evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Neither party raised any concerns regarding the service of documentary evidence and their respective applications.

### Preliminary and Procedural Matters

At the outset of the hearing, the agents stated that they were reducing their monetary claim from \$355.46 to \$110.25 to cover the cost of the carpet cleaning. This amount does not include the filing fee that has also been applied for by the landlord.

The parties confirmed their email addresses at the outset of the hearing. The parties confirmed their understanding that the decision would be emailed to both parties. Any applicable orders will be emailed to the appropriate party for service on the other party.

### Issues to be Decided

- Is either party entitled to a monetary order under the *Act*, and if so, in what amount?
- What should happen to the tenants' security deposit under the *Act*?
- Is either party entitled to the recovery of the cost of the filing fee under the *Act*?

### Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on June 1, 2014. The parties disputed the date the tenants vacated the rental unit. The tenants stated that they vacated the rental unit on January 29, 2019, and the landlord stated that the tenants vacated the rental unit on January 31, 2019. During the tenancy, monthly rent was \$1,030.00 per month. The tenants paid a security deposit of \$515.00 at the start of the tenancy, which the landlord continues to hold.

#### *Landlord's claim*

The landlord's reduced monetary claim of \$110.25 is comprised as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Carpet cleaning	\$110.25
<b>TOTAL</b>	<b>\$110.25</b>

Regarding item 1, the landlord has claimed \$110.25 for the cost to clean the carpets. The agents referred to a receipt submitted in evidence, which is in the amount of \$140.00. The agents stated that they have deducted 25% from that total of \$140.00 due

to water ingress during the tenancy and as a result, felt that it was only fair if the landlord covered 25% of the cost of the carpet cleaning. The tenants confirmed that they did not clean the carpets before vacating the rental unit. The tenants stated that they did not feel that cleaning the carpets were their responsibility given the water leak in the rental unit and that it should have been the full responsibility of the landlord.

The tenants confirmed that they agreed to a \$140.00 deduction from the security deposit for drapes. As a result, the resulting net security deposit would be \$375.00. Regarding the pet damage deposit, the agents stated that the pet damage deposit of \$200.00 was already returned to the tenants. The tenants confirmed they received the cheque, but have not yet cashed the cheque. As the pet damage deposit cheque of \$200.00 was dated February 14, 2019, the agents confirmed that the cheque has not been cancelled by the landlord and is not yet stale dated as six months have not yet passed since February 14, 2019.

#### *Tenants' claim*

The tenants confirmed during the hearing that they were guessing at the amount of double their security deposit as they could not recall exactly how much the security deposit was. There is no dispute that the tenants paid rent for January 2019, and as a result, the tenants were advised that the tenancy ended on January 31, 2019, as the tenants paid for use and occupancy of the rental unit until the end of January 2019.

The landlord's filed their application on February 13, 2019, claiming against the tenants' security deposit.

#### *Analysis*

Based on the documentary evidence, testimony, and on the balance of probabilities, I find the following.

#### *Test for damages or loss*

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in sections 7 and 67 of the *Act*. Accordingly, an applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;

2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did what was reasonable under the *Act* to minimize the damage or loss.

Landlord's claim

The landlord has claimed \$110.25 for the reduced cost of carpet cleaning, yet the total invoice was \$140.00 as submitted in evidence. I find that Residential Tenancy Branch Policy Guideline 1 – Responsibility for Residential Premises applies and states regarding carpets the following:

3. The tenant is responsible for periodic cleaning of the carpets to maintain reasonable standards of cleanliness. **Generally, at the end of the tenancy the tenant will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year.** Where the tenant has deliberately or carelessly stained the carpet he or she will be held responsible for cleaning the carpet at the end of the tenancy regardless of the length of tenancy.

[Emphasis added]

Based on the tenants' testimony that they did not clean the carpets before they vacated, I find the tenants breached section 37(2)(a) of the *Act*, which states:

**Leaving the rental unit at the end of a tenancy**

**37** (2) When a tenant vacates a rental unit, the tenant must

(a) **leave the rental unit reasonably clean**, and undamaged except for reasonable wear and tear, and

[Emphasis added]

As the tenancy started in June 2014 and ended in January 2019, I find the tenants were responsible for cleaning the carpets before they vacated, which they confirmed they did not do. I find that the tenants' are responsible regardless of a water leak, given the length of the tenancy. I find the landlord has met the burden of proof by reducing the claim by 25% to account for the water leak. Therefore, I find the \$110.25 amount to be reasonable and I grant the landlord **\$110.25** as claimed.

As the landlord's application had merit, I grant the landlord **\$100.00** for the recovery of the cost of the filing fee under the *Act*, pursuant to section 72 of the *Act*.

*Tenants' claim*

As noted above, I find the tenancy ended on January 31, 2019, as the tenants paid rent for the entire month of January 2019. As the landlord filed their application on January 13, 2019, I find the landlord has complied with section 38 of the *Act*, which requires that a landlord either return or claim against the security deposit within 15 days of the end of tenancy date. Therefore, I dismiss the tenants' application for double the return of their security deposit as I find the landlord did not breach section 38 of the *Act* by filing their application claiming against the security deposit within 15 days of the end of the tenancy.

Regarding the amount of the security deposit, and as noted above, I find that based on the testimony of the parties, that the tenants agreed to deduct \$140.00 for drapes from the \$515.00 security deposit, which I find results in the security deposit net balance being \$375.00 at the end of the tenancy. I also find that the \$200.00 pet damage deposit cheque received by the tenants and dated February 14, 2019, was returned in accordance with section 38 of the *Act* and is not yet stale dated. Accordingly, the tenants are encouraged to cash that cheque as soon as possible.

I do not grant the tenants' the recovery of the cost of the filing fee as their application was not successful for double the return of their security deposit, and was not necessary as a result. I would have ordered the return of the security deposit balance, without the tenants' application being filed.

Given that the landlord has established a total monetary claim of **\$210.25**, which is comprised of \$110.25 for carpet cleaning and the \$100.00 filing fee, I authorize the landlord to retain **\$210.25** from the tenant's security deposit balance of \$375.00, in full satisfaction of the landlord's monetary claim, pursuant to sections 38, 67 and 72 of the *Act*.

I find that the above results in a security deposit balance owing by the landlord to the tenants for the security deposit balance in the amount of **\$164.75**. I have arrived at this amount by deducting the landlord's claim of \$210.25 from the \$375.00 net security deposit balance. I order the landlord to return the balance of the tenants' security deposit in the amount of **\$164.75**, to be post-marked within 15 days of receipt of this

decision. Should the landlord fail to comply with my order, I grant the tenants a monetary order pursuant to section 67 of the *Act* accordingly in the amount of \$164.75.

### Conclusion

The application of the tenants for the return of double their security deposit is dismissed, without leave to reapply and was not necessary as the landlord applied against the tenants' security deposit in accordance with section 38 of the *Act*.

The application of the landlord is partially successful.

The landlord has established a total monetary claim of \$210.25 as described above.

The landlord has been authorized to retain \$210.25 from the tenants' \$375.00 net security deposit in full satisfaction of the landlord's monetary claim. The landlord has been ordered to return the balance of the tenants' security deposit in the amount of \$164.75 as noted above.

The tenants have been granted a monetary order pursuant to section 67 of the *Act* in the amount of \$164.75. Should the landlord fail to pay the tenants \$164.75 as ordered, the tenants must serve landlord with the monetary order and may also file the monetary order in the Provincial Court (Small Claims) to be enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: June 12, 2019

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Residential Tenancy Branch